

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOANN FONZONE,

Plaintiff,

v.

JOE OTERI, et al.,

Defendants.

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**Civil Action
No. 12-5726**

ORDER

AND NOW, this _____ day of _____, 2018, upon consideration of Plaintiff's Motion for Reconsideration and Motion to Compel Further Responses to Plaintiff's Interrogatories and Defendant's Response, it is **HEREBY ORDERED** that the Motion is **DENIED**.

BY THE COURT:

THE HONORABLE JEFFREY L. SCHMEHL

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DEFENDANTS' RESPONSE TO PLAINTIFF'S SECOND MOTION TO COMPEL

Municipal Defendants, by and through the undersigned counsel, hereby file this Response to Plaintiff's Motion for Reconsideration and Motion to Compel. Defendants respectfully request that this Court deny Plaintiff's motions as they are wholly without merit.

1. PLAINTIFF'S MOTION TO COMPEL SHOULD BE DENIED

Plaintiff previously filed the instant motion to compel on August 11, 2016. ECF Doc. 78. A response was filed on August 12, 2016, identifying the deficiencies in the motion, including evidence that the Defendants responded to Plaintiff's requests and that Plaintiff failed to identify any responses she claimed to be deficient in her motion. ECF Doc. 79. On September 20, 2016, the Court denied Plaintiff's motion to compel because she failed to identify which responses were deficient. ECF Doc. 88. Plaintiff has presented no new evidence in the pending motion for the Court to consider. Therefore, Plaintiff's Motion to Compel should be denied.

2. PLAINTIFF'S MOTION FOR RECONSIDERATION SHOULD BE DENIED

Reconsideration of a Court Order is appropriate where (1) there has been an intervening change in controlling law; or (2) new evidence is available; or (3) there is need to correct a clear error of law or prevent manifest injustice. Sinanan v. Mechling, 2002 WL 1832828 (E.D. Pa.,

Aug. 5, 2002); DVI Financial Services v. Kagan, 2001 WL 1003231 (E.D. Pa., Aug. 30, 2001), citing North River Ins. Co. v. Cigna Reinsurance Co., 52 F.3d 1194 1218 (3d Cir. 1995).

Plaintiff appears to be seeking reconsideration of this Court's Order denying Plaintiff's motion to compel discovery responses. ECF Doc. 88. Plaintiff also notes that on November 10, 2016, the Court denied Plaintiff's 2nd motion to compel discovery responses. ECF Doc. 98. Plaintiff appears to be confused regarding the Court's November 4, 2016 Order requiring Defendants to respond to Plaintiff's motion. ECF Doc. 96. Defendants responded to Plaintiff's motion on November 9, 2016, and on November 10, 2016 the Court entered an Order denying Plaintiff's motion. ECF Doc. 97 and 98.

As addressed above, Plaintiff has failed to identify how any of the Defendants' responses were deficient and has not articulated either a change in controlling law, new evidence, or a clear error of law which would warrant reconsideration of the Court's Order. Therefore, her motion should be denied.

Date: March 9, 2018

Respectfully submitted,

/s/ Aaron Shotland
Aaron Shotland, Esq.
City of Philadelphia Law Department
Civil Rights Unit
1515 Arch Street, 14th Floor
Philadelphia, PA 19102

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CITY OF PHILADELPHIA, et al.,

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CERTIFICATE OF SERVICE

I hereby certify that on the date below, the Defendant's Response was filed via the Court's electronic filing system and is available for downloading. A copy was also sent via first class mail to the following recipients:

JOANN FONZONE
2242 TILGHMAN STREET
ALLENTOWN, PA 18104

Date: March 9, 2018

Respectfully submitted,

/s/ Aaron Shotland

Aaron Shotland, Esq.
City of Philadelphia Law Department
Civil Rights Unit
1515 Arch Street, 14th Floor
Philadelphia, PA 19102